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12 **UNITED STATES DISTRICT COURT**  
13 **NORTHERN DISTRICT OF CALIFORNIA**  
14 **SAN FRANCISCO DIVISION**

15 IN RE: UBER TECHNOLOGIES, INC.,  
PASSENGER SEXUAL ASSAULT  
16 LITIGATION

Case No. 3:23-md-03084-CRB

**DEFENDANT UBER TECHNOLOGIES,  
INC., RASIER, LLC, AND RASIER-CA,  
LLC'S BRIEF IN SUPPORT OF AUGUST  
8, 2025 CLAWBACKS PURSUANT TO  
SPECIAL MASTER ORDER NO. 4, § III**

17 This Document Relates to:  
18  
19 ALL ACTIONS

20 Pursuant to Special Master Order No. 4, § III (Dkt. 2933), Defendants submit this brief in  
21 support of Uber's privilege assertions for two documents it clawed back on August 8, 2025, pursuant  
22 to Pretrial Order No. 14. Defendants respectfully request that the Special Master uphold the privilege  
23 claims as to the challenged documents. Plaintiffs in the California JCCP have also challenged the  
24 clawback of one of these documents, JCCP\_MDL\_PRIVLOG074265, and Defendants understand that  
25 Plaintiffs view this as a time-sensitive document. Defendants respectfully request that the Special  
26 Master expedite review of the privilege claim as to JCCP\_MDL\_PRIVLOG074265.

Defendants incorporate by reference the legal standard and arguments set forth in Defendants' prior briefing (Dkts. 2433, 2461, 2528, 2544, and 2580). As further support for their privilege claims, Defendants provide the arguments and factual support listed below, along with the August 22, 2025 declaration of Uber's Associate General Counsel, Safety and Core Services, Scott Binnings (Ex. A). The applicable legal standard and arguments outlined below and in prior briefs, the declaration from in-house counsel, and the factual material previously provided to the Special Master,<sup>1</sup> when reviewed in conjunction with the challenged documents and the associated metadata fields, establish that both documents at issue are privileged:

**JCCP MDL PRIVLOG074265**

JCCP\_MDL\_PRIVLOG074265 is a confidential spreadsheet titled "Global-Safety Risk Register Template – ATTORNEY-CLIENT PRIVILEGED." This spreadsheet was clawed back in full on August 8, 2025, but was produced with redactions on August 22, 2025. As Mr. Binnings explains, this spreadsheet tracked certain safety risks so that the company could identify risk prevention and mitigation efforts. Ex. A at para. 2. Mr. Binnings and Amos Davis, then-Global Senior Counsel, helped to develop the risk tracking framework represented in -74265 and provided legal guidance throughout its creation. *Id.* Hannah Nilles, Director, Head of Safety – Americas, confirmed this fact during her August 6, 2025, deposition. Ms. Nilles explained that the document was created with an attorney, and the creation and assignment of information within the document was done with an attorney. Nilles Dep. (Aug. 6, 2025) at 844:24-845:18.<sup>2</sup> Mr. Binnings's declaration also confirms that he and Mr. Davis provided legal advice on certain areas of risk that were important to potential litigation and regulatory concerns. Ex. A at para. 2. Their advice is reflected in the redacted portions of the spreadsheet. *Id.*; *see also, e.g.*, JCCP\_MDL\_PRIVLOG074265 (tabs for "Risk Matrix," "US&C Risk Tracker," and "Copy of US&C Risk Tracker"). Mr. Davis, who reported to Mr. Binnings at the

<sup>1</sup> As requested by the Special Master, Uber has provided: (1) a glossary of terms commonly used in disputed documents, (2) a list of names and titles of relevant Uber inside and outside counsel, and (3) a digest of third-parties present in its privilege log. Defense counsel will also be available for any questions the Special Master may have during the review process.

<sup>2</sup> Defendants will make available the relevant excerpts from Mr. Nilles's deposition testimony to the Special Master's team for review.

1 time, was responsible for providing legal guidance on how to categorize certain areas of risk. He did  
2 so at Mr. Binnings's direction and with Mr. Binnings's supervision. The redacted portions of the  
3 spreadsheet are privileged because they directly reflect the legal guidance that Mr. Davis provided.

4 Plaintiffs challenge this document based on their belief that the document was not created by  
5 an attorney. The metadata, however, confirms that Mr. Binnings and Mr. Davis were both  
6 collaborators on the document, consistent with the facts set out above. While counsel helped to develop  
7 the entire framework of the risk tracker, Defendants have redacted only the portions of the document  
8 that directly reflect the guidance of counsel.

9 In their August 22 challenges, MDL Plaintiffs also note that this document was cited by an  
10 expert for plaintiffs in the JCCP matter on July 18 and claim that Defendants' clawback is untimely.  
11 Their argument is misplaced. PTO 14 requires that a clawback notice be issued within 21 calendar  
12 days "upon discovery that a document has been produced for which the Producing Party asserts  
13 privilege and/or other protection." Dkt. 396. Even if service of the JCCP expert report on July 18  
14 constituted such discovery, Defendants' August 8 clawback was timely and within the 21 day period  
15 allowed by PTO 14. Moreover, the document was clawed back on the record when it was introduced  
16 at the August 6 deposition of Ms. Nilles, and a formal clawback notice was promptly issued just two  
17 days later.

18 The Special Master should uphold Defendants' limited redactions based on attorney-client  
19 privilege.

20 **JCCP\_MDL\_PRIVLOG110283**

21 Following conferrals with Plaintiffs' counsel, Defendants intend to produce a redacted version  
22 of JCCP\_MDL\_PRIVLOG110283 to protect privileged sections of the document that are explicitly  
23 attributed to in-house counsel (Mr. Binnings and Mr. Davis). Plaintiffs do not contest that portions of  
24 this document should be redacted as privilege. *See* Aug. 22 Challenges, row 3. Defendants believe the  
25 redacted version resolves the present dispute.

1 DATED: August 25, 2025

Respectfully submitted,

2 **SHOOK HARDY & BACON L.L.P.**

3 By: /s/ Jennifer Hill

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